

Assembly Bill No. 1409

Passed the Assembly September 12, 2013

Chief Clerk of the Assembly

Passed the Senate September 11, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1904 of, to add Sections 881, 881.5, and 1001.7 to, and to repeal Section 1906 of, the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1409, Bradford. Public utilities: voice communications: Moore Universal Telephone Service Act.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law allows the commission to charge and collect a fee of \$75 for filing each application for a certificate of public convenience and necessity, or for the mortgage, lease, transfer, or assignment of a certificate.

This bill would instead require the fee to not exceed the reasonable costs to the commission for filing these applications. The bill would authorize the fee in an amount not to exceed \$500 and would authorize the commission to adjust this fee based on the Consumer Price Index.

(2) Existing law establishes the Public Utilities Commission Utilities Reimbursement Account in the General Fund and generally provides that all fees and charges collected under the Public Utilities Code, except penalties, from each public utility be paid into the fund. Other existing law provides that specified fees, including, but not limited to, the fee for filing each application for a certificate of public convenience and necessity, or for the mortgage, lease, transfer, or assignment of a certificate, are required to be paid at least once each month into the State Treasury to the General Fund.

This bill would repeal the provision that requires certain fees to be paid at least once each month into the State Treasury to the General Fund.

(3) Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state

mechanisms to preserve and advance universal service, consistent with certain universal service principles. Under the act, universal service is an evolving level of telecommunications services that the Federal Communications Commission is required to establish periodically, taking into account advances in telecommunications and information technologies and services. Pursuant to the act, the Federal Communications Commission has established and revised a lifeline program that is available for qualifying low-income consumers.

The Moore Universal Telephone Service Act establishes the Universal Lifeline Telephone Service program in order to provide low-income households with access to affordable basic residential telephone service. Existing law establishes the Universal Lifeline Telephone Service Trust Administrative Committee Fund in the State Treasury. The Moore Universal Telephone Service Act requires the commission to annually designate a class of lifeline service necessary to meet minimum residential communications needs, to set the rates and charges for that service, to develop eligibility criteria for that service, and to assess the degree of achievement of universal service, including telephone penetration rates by income, ethnicity, and geography.

This bill would require the commission to adopt rules by June 1, 2014, authorizing an alternative provider of voice communications service to voluntarily participate in the state lifeline program pursuant to the Moore Universal Telephone Service Act. The bill would require that the rules, among other things, not prevent or delay any alternative provider of voice communications service from participating based on the technology utilized to provide service and provide reimbursement to all participating lifeline providers on a nondiscriminatory basis. The bill would prohibit the commission, in exercising its delegated authority under federal law to designate eligible telecommunications carriers, or in exercising its authority to authorize an alternative provider of voice communications service to participate in the state lifeline program, to deny a request to be designated as a lifeline provider based on the requesting entity providing any Voice over Internet Protocol or Internet Protocol enabled service. The bill would provide that a lifeline provider, including a lifeline provider that is not a telephone corporation, is

eligible for reimbursement from the Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Public Utilities Act prohibits any telephone corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require that construction.

This bill would prohibit the commission from denying or revoking a certificate of public convenience and necessity applied for by or issued to a telephone corporation that provides retail or wholesale telecommunications services on the grounds that the telephone corporation also provides Voice over Internet Protocol service or any other unregulated service.

(5) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and would require action by the Public Utilities Commission to implement its requirements, and because the bill would expand the class of lifeline providers, the bill would impose a state-mandated local program by expanding the scope of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 881 is added to the Public Utilities Code, to read:

881. (a) By June 1, 2014, the commission shall adopt rules that are applicable to all lifeline service providers, including providers using alternative technologies. The rules shall do all of the following:

(1) Not prevent or delay any alternative provider of voice communications service from participating based on the technology utilized to provide service, including any Voice over Internet Protocol or Internet Protocol enabled service, notwithstanding Section 710.

(2) Provide reimbursement to all participating lifeline providers on a nondiscriminatory basis.

(3) Establish a process to expeditiously review requests from any alternative provider of voice communications service to participate in the lifeline program, which may be an advice letter process, and may allow a provider to seek, in a single consolidated request, authorization to be a lifeline provider under this section and designation as an eligible telecommunications carrier pursuant to the federal lifeline program.

(b) The commission shall not, in exercising its delegated authority under federal law to designate eligible telecommunications carriers, or in exercising its authority under this section to authorize an alternative provider of voice communications service to participate in the state lifeline program, deny a request to be designated as a lifeline provider based on the requesting entity providing any Voice over Internet Protocol or Internet Protocol enabled service.

SEC. 2. Section 881.5 is added to the Public Utilities Code, to read:

881.5. Notwithstanding Section 270, a lifeline provider, including a lifeline provider that is not a telephone corporation, shall be eligible for reimbursement from the Universal Lifeline Telephone Service Trust Administrative Committee Fund.

SEC. 3. Section 1001.7 is added to the Public Utilities Code, to read:

1001.7. The commission shall neither deny nor revoke a certificate of public convenience and necessity applied for by or issued to a telephone corporation that provides retail or wholesale telecommunications services on the grounds that the telephone corporation also provides Voice over Internet Protocol service or any other unregulated service. This section does not expand the commission's existing jurisdiction over any service or affect any provision of Section 710. This section does not give any telephone corporation any new rights or powers.

SEC. 4. Section 1904 of the Public Utilities Code is amended to read:

1904. The commission shall also charge and collect the following fees:

(a) Except as otherwise provided in Section 1036 for filing each application for a certificate of public convenience and necessity, or for the mortgage, lease, transfer, or assignment thereof, an amount not to exceed five hundred dollars (\$500). The commission may adjust this fee based on the Consumer Price Index. The fee charged and collected pursuant to this subdivision shall not exceed the reasonable costs to the commission for filing the application.

(b) For a certificate authorizing an issue of bonds, notes, or other evidences of indebtedness, two dollars (\$2) for each one thousand dollars (\$1,000) of the face value of the authorized issue or fraction thereof up to one million dollars (\$1,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to ten million dollars (\$10,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000), with a minimum fee in any case of fifty dollars (\$50). No fee need be paid on such portion of any such issue as may be used to guarantee, take over, refund, discharge, or retire any stock, bond, note or other evidence of indebtedness on which a fee has theretofore been paid to the commission. If the commission modified the amount of the issue requested in any case and the applicant thereupon elects not to avail itself of the commission's authorization, no fee shall be paid, and if such fee is paid prior to the issuance of such certificate by the commission, such fee shall be returned.

SEC. 5. Section 1906 of the Public Utilities Code is repealed.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that persons qualifying for the lifeline program have access to the lifeline program and alternative voice communication technologies necessary to live in a modern society, including the ability to communicate with social services and first responders, and to ensure that a telecommunications provider can provide those services, it is necessary to the health and safety of the state that this act take effect immediately.

Approved _____, 2013

Governor